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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/502,274	02/11/2000	Andrew J.J. McCarthy	056790-0001	4939

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EXAMINER

FUREMAN, JARED

ART UNIT PAPER NUMBER

2876

DATE MAILED: 11/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/502,274

Applicant(s)

MCCARTHY ET AL.

Examiner

Jared J. Fureman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) 21-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20, 34 and 35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 February 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5 and 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Receipt is acknowledged of the amendment and election filed on 10/15/2002, which has been entered in the file (paper number 9). Claims 1-35 are pending.

Information Disclosure Statement

1. The information disclosure statement filed 5/4/2000 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed (no copies of the references were provided). It has been placed in the application file, but the information referred to therein has not been considered.

Election/Restrictions

2. Applicant's election with traverse of Group I, figures 1-3, 5, 6, having claims 1-20, 34, and 35 in Paper No. 9 is acknowledged. The traversal is on the ground(s) that the embodiments are patentably indistinct from one another, the embodiments all comprise the inventive concept of a cargo security tag having a data carrying member for storing information (see page 2 of the amendment/election filed on 10/15/2002). This is not found persuasive because, while the embodiments all comprise a cargo security tag having a data carrying member for storing information, the different structures of the data carrying member/cargo security tag are patentably distinct. For example, in Group I, figures 1-3, 5, 6, the cargo security tag includes a data carrying member in which the information is printed/written on the data carrying member, in Group II, figure 4, the

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cargo security tag includes electrical/electronic components for communication/storing information. For these reasons, the species are patentably distinct.

The requirement is still deemed proper and is therefore made FINAL.

3. Claim 21-33 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 9.

Drawings

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "38" has been used to designate both a logo (see figure 2 and page 18, line 27, for example) and a strip (see figure 4 and page 19, line 7, for example). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

5. The disclosure is objected to because of the following informalities: reference character "38" has been used to designate both a logo (see page 18, line 27, for example) and a strip (see page 19, line 7, for example).

Appropriate correction is required.

6. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is

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requested in correcting any errors of which applicant may become aware in the specification.

Claim Objections

7. Claims 1, 2, 10, 16 are objected to because of the following informalities:

Claim 1, lines 3 and 4: "it" should be replaced with --the tie--, in order to clarify the claim.

Claim 2, line 5: "its" should be replaced with --the stems--, in order to clarify the claim.

Claim 10, line 2: "it" should be replaced with --the flag--, in order to clarify the claim.

Claim 16, line 4: "it" (both occurrences) should be replaced with --the tie--, in order to clarify the claim.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1, 10, 14, 19, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Morgan (US 5,560,657).

Morgan teaches a cargo (10) closure for sealing a cargo item (a container, such as luggage, brief cases, etc.) in a closed condition comprising a tie (tongue 14) and a data carrying member (base area 12), the tie being permanently closable in the sense that once closed, the tie cannot easily be opened without rupturing the tie, and being adapted to secure the data carrying member to a said cargo item, wherein the data

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carrying member comprises a flag (halves 18 and 19 of the base area represent a flag) having a median zone of weakness (fold line 16) at which the flag is foldable, wherein some or all of the data (imprinted indicia 22) is in the form of visually legible characters, the cargo item comprising two components (for example: the components of a piece of luggage or the components of a briefcase) which are relatively movable to open the cargo item, the tie being operable to secure together the data carrying member and the two relatively movable components in such manner that the two components cannot be separated and thus the cargo item cannot be opened without rupture of the tie, wherein at least one of the relatively movable components comprises part of a zip fastening device (zipper end tags) (see figures 1-3, column 3 lines 29-48, 58-65, and column 4 line 66 - column 5 line 2).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 2-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morgan in view of Moberg et al (US 4,001,919).

The teachings of Morgan have been discussed above.

Morgan fails to teach the tie comprising a stem and a member having an opening into which the stem may be inserted, the stem and opening comprising co-operating surface formations adapted and arranged to allow insertion of the stem into the opening

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and to resist the stems withdrawal therefrom, the stem comprising a zone of weakness, the ultimate tensile strength of the zone of weakness being below the force required to withdraw the stem from the opening, the stem comprising stop means operative to limit insertion of the stem into the opening, wherein the surface formations comprise a series of axially spaced ribs and such ribs are of a generally saw-toothed shaped profile, wherein the ribs extend around the stem in substantially circular manner.

Moberg et al teaches a cargo closure (seal 10) for sealing a cargo item (for example, bag 18) in a closed condition comprising a tie, the tie being permanently closable in the sense that once closed, the tie cannot easily be opened without rupturing the tie, tie comprising a stem (a shackle having portions 38, 24, and 22) and a member having an opening (aperture 25) into which the stem may be inserted, the stem and opening comprising co-operating surface formations (shoulder 28 formed by enlargements 29 and fingers 26) adapted and arranged to allow insertion of the stem into the opening and to resist the stems withdrawal therefrom, the stem comprising a zone of weakness (slot 30), the ultimate tensile strength of the zone of weakness being below the force required to withdraw the stem from the opening, the stem comprising stop means (portion 22, which is wide and flat) operative to limit insertion of the stem into the opening, wherein the surface formations comprise a series of axially spaced ribs and such ribs are of a generally saw-toothed shaped profile, wherein the ribs extend around the stem in substantially circular manner (see figures 1-4, column 1 lines 5-8, 36-58, column 2 lines 4-26, column 2 line 35 - column 3 line 21).

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In view of Moberg et al's teachings, it would have been obvious to one of ordinary skill in the art at the time of the invention to include, with the system as taught by Morgan, tie comprising a stem and a member having an opening into which the stem may be inserted, the stem and opening comprising co-operating surface formations adapted and arranged to allow insertion of the stem into the opening and to resist the stems withdrawal therefrom, the stem comprising a zone of weakness, the ultimate tensile strength of the zone of weakness being below the force required to withdraw the stem from the opening, the stem comprising stop means operative to limit insertion of the stem into the opening, wherein the surface formations comprise a series of axially spaced ribs and such ribs are of a generally saw-toothed shaped profile, wherein the ribs extend around the stem in substantially circular manner, in order to provide a seal which is easily, intentionally fractured, without the requirement for cutting the cargo closure (see column 3 lines 13-21).

12. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morgan as modified by Moberg et al as applied to claim 7 above, and further in view of Georgopoulos et al (US 5,524,945).

Morgan as modified by Moberg et al fails to specifically teach wherein a said co-operating surface formation on the opening is spaced from each end of that opening by an amount which is greater than the axial spacing of the ribs.

Georgopoulos et al teaches a cargo closure (security seal 10) having a stem (shackle 18) and a member (projection 24) having an opening (30) into which the stem may be inserted, the stem and opening comprising co-operating surface formations

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adapted and arranged to allow insertion of the stem into the opening and to resist the stems withdrawal therefrom, wherein the surface formations comprise a series of axially spaced ribs (95) and such ribs are of a generally saw-toothed shaped profile, wherein a said co-operating surface formation (110, 114) on the opening is spaced from each end of that opening by an amount which is greater than the axial spacing of the ribs (see figures 1, 13-15, column 1 lines 4-7, column 3 line 16 - column 4 line 2, column 4 line 54 - column 5 line 3).

In view of Georgopoulos et al's teachings, it would have been obvious to one of ordinary skill in the art at the time of the invention to include, with the system as taught by Morgan as modified by Moberg et al, wherein a said co-operating surface formation on the opening is spaced from each end of that opening by an amount which is greater than the axial spacing of the ribs, in order to improve the security of the closure.

13. Claims 9 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morgan in view of Georgopoulos et al.

The teachings of Morgan have been discussed above.

Morgan fails to specifically teach the tie and data carrying member being constituted by an integral moulding of thermoplastics material, wherein some of the data is in machine readable form.

Georgopoulos et al teaches a cargo closure (security seal 10) wherein a tie (shackle 18) and a data carrying member (flag 14) are constituted by an integral moulding of thermoplastics material, wherein some of the data is in machine readable form (indicia 20) (see figure 1, column 1 lines 4-7, and column 3 lines 16-29).

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In view of Georgopoulos et al's teachings, it would have been obvious to one of ordinary skill in the art at the time of the invention to include, with the system as taught by Morgan, the tie and data carrying member being constituted by an integral moulding of thermoplastics material, in order to allow efficient production of the closure, and wherein some of the data is in machine readable form, in order to allow quick and accurate entry of the data into a computer system.

14. Claims 11, 12, and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morgan in view of Javkin (US 3,352,040).

The teachings of Morgan have been discussed above.

Morgan fails to specifically teach providing releasable snap-fit means for holding the foldable data carrying member in folded condition, wherein the folded data carrying member constitutes a pocket for retaining a removable data carrier, a travel document/ticket, the travel document containing ownership information.

Javkin teaches a tag (110) including snap-fit means (apertures 128 and detents 140) for holding a foldable data carrying member (plate portions 124, 126) in folded condition, wherein the folded data carrying member constitutes a pocket for retaining a removable data carrier (a name and address label) a travel document/ticket (the label can be considered a travel document or ticket), the travel document containing ownership information (the label contains the owners name) (see figures 5-7, column 1 lines 10-40, column 2 line 44 - column 3 line 13).

In view of Javkin's teachings, it would have been obvious to one of ordinary skill in the art at the time of the invention to include, with the system as taught by Morgan,

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releasable snap-fit means for holding the foldable data carrying member in folded condition, wherein the folded data carrying member constitutes a pocket for retaining a removable data carrier a travel document/ticket, the travel document containing ownership information, in order to provide additional cargo data (data in addition to the signature as taught by Morgan) for identifying and/or routing the cargo.

15. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morgan as modified by Javkin as applied to claim 12 above, and further in view of Teranishi et al (JP 10-13313 A).

Morgan as modified by Javkin fails to specifically teach the removable data carrier comprising integrated circuit means.

Teranishi et al teaches a data carrier (a wireless identification sheet) that includes integrated circuit means (4) (see figure 1 and translations of the abstract, provided from both Derwent and JPO databases).

In view of Teranishi et al's teachings, it would have been obvious to one of ordinary skill in the art at the time of the invention to include, with the data carrier as taught by Morgan as modified by Javkin, the removable data carrier comprising integrated circuit means, in order to allow wireless reading of the data carrier, thereby easing the identifying/routing operations of the cargo.

16. Claim 34 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morgan in view of Thompson (US 4,187,628).

The teachings of Morgan have been discussed above.

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Morgan fails to specifically teach a method of advertising including displaying advertising material on the data carrier, wherein the advertising material is on a label which is stuck to the data carrier.

Thompson teaches a method of advertising, including displaying advertising material (logo or other advertising material 66) on a data carrier (panels 46 and 48), wherein the advertising material is on a label (plate 50) which is stuck to the data carrier (the plate 50 is stuck to the data carrier in that the plate is attached to the panels by buttons 60 and 62) (see figures 4, 5, and column 7 lines 7-32).

In view of Thompson's teachings, it would have been obvious to one of ordinary skill in the art at the time of the invention to include, with the system as taught by Morgan, a method of advertising including displaying advertising material on the data carrier, wherein the advertising material is on a label which is stuck to the data carrier, in order to promote a manufacturer or business associated with the cargo, thereby generating interest in possible customers.

Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hughes (US 6,189,249 B1), Burt (US 6,174,006 B1), DeBrouse (US 5,920,053), Morgan (US 5,452,930), Lundberg, Jr (US 5,183,301), Wenk (US 4,306,745), Daenen (US 4,266,354), Groselak et al (US 3,994,085), Kalenian (US 3,961,431), Moberg (US 3,588,963), Merse (US 3,516,124), Merse (US 3,422,499), Field (US 3,384,984), Kipper et al (US 1,871,064), Adamson et al (EP 0 642 110 A1), and Vlaemynck EP 1 132 309 A1) all teach cargo closures or tags.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jared J. Fureman whose telephone number is (703) 305-0424. The examiner can normally be reached on 7:00 am - 4:30 PM M-T, and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (703) 305-3503. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Jjf

jjf

November 14, 2002


MICHAEL G. LEE
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